

CURTIS WHEELER

IBLA 81-850

Decided May 28, 1982

Appeal from decision of the Wyoming State Office, Bureau of Land Management, rejecting oil and gas lease application W 75592.

Affirmed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Lands Subject to

Land included in an existing oil and gas lease, whether the lease is void, voidable, or valid, is not available for leasing, and an offer filed for such land must be rejected.

2. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: First-Qualified Applicant -- Oil and Gas Leases: Lands Subject to

Lands formerly included in an oil and gas lease which expired at the end of its primary or extended term, or terminated automatically for nonpayment of rental, are subject to the filing of new lease applications only in accordance with the simultaneous filing procedures found in 43 CFR Subpart 3112.

APPEARANCES: Curtis Wheeler, pro se.

OPINION BY ADMINISTRATIVE JUDGE GRANT

Curtis Wheeler appeals from the July 6, 1981, decision of the Wyoming State Office, Bureau of Land Management (BLM), rejecting oil and gas lease application, W 75592.

Appellant filed his noncompetitive oil and gas lease application over the counter on June 1, 1981. The application was subsequently rejected by decision of BLM on the ground that the lands applied for were subject to an outstanding lease, W 28543, issued June 1, 1971. The record indicates that

lease was subject to extension beyond its primary term because of its inclusion in the Sulphur Spring Unit, effective May 28, 1981, for which a well was being drilled on the expiration date of the lease. See 30 U.S.C.A. § 226(e) (West Supp. 1982).

On appeal to the Board appellant requests that his lease offer be considered under the regulations in 43 CFR 3101.1-1, which provide that lands not within the known geologic structure of a producing oil or gas field shall be leased only noncompetitively to the first qualified applicant.

[1] With respect to applications for land embraced in an existing lease, the Board has repeatedly held that to the extent an offer to lease embraces lands presently under lease, the offer is properly rejected, regardless of whether the lease is void, voidable, or valid. Curtis Wheeler, 56 IBLA 58 (1981); David A. Provinse, 45 IBLA 111 (1980).

[2] Even if lease W 28543 had expired at the end of its primary term, the regulation governing noncompetitive leasing of lands formerly included in oil and gas leases is 43 CFR Subpart 3112, which provides in pertinent part:

§ 3112.1-1 Availability of lands.

All lands which are not within a known geological structure of a producing oil or gas field and are covered by canceled or relinquished leases, leases which automatically terminate for nonpayment of rental pursuant to 30 U.S.C. 188, or leases which expire by operation of law at the end of their primary or extended terms are subject to leasing only in accordance with this subpart.

Pursuant to 43 CFR 3112.1-1, all lands covered by leases which expire by operation of law at the end of their primary or extended terms shall be subject to filing of new lease applications only in accordance with simultaneous filing procedures. This is the procedure for determining the first qualified applicant for a lease of such lands through a public drawing.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

C. Randall Grant, Jr.  
Administrative Judge

We concur:

Bernard V. Parrette  
Chief Administrative Judge

Edward W. Stuebing  
Administrative Judge

